IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

GOVERNMENT APPEAL No.1356 of 2001
(Old No.1982 of 1987)

The State

... Appellant

Versus

Chandra Singh S/o Sri Gyan Singh, R/o Panditwari, P.S. Cantt., Distt. Dehradun

... Respondent

Sri Harish Pujari, Add.G.A. for the State.
Sri Ajay Singh Bisht, amicus curiae for respondent

Dated: September 6, 2007

HON. DHARAM VEER, J.

This appeal, preferred, u/s 377 of Code of Criminal Procedure, 1973 (*hereinafter to be referred as Cr.P.C.*) is directed against the judgment and order dated 28.5.1987 passed by CJM, Dehradun in Case No.192 of 1983, State v. Chandra Singh.

By order dated 28.5.1987, the learned CJM, Dehardun has convicted the respondent u/s 279/377/338/304-A of The Indian Penal Code, 1860 (*hereinafter to be referred as IPC*) and also u/s 117 of Motor Vehicles Act. The respondent was awarded sentence for six days simple imprisonment u/s 279/377/338 IPC and u/s 117 of Motor Vehicles Act and further for Rs.2,000/- as fine u/s 304-A of IPC and in case of default of fine, further three months simple imprisonment was awarded. It was also directed that respondent has passed out one-week time in jail and that period was directed to be adjusted. All the sentences were directed to run concurrently. Against the said judgment and order dated 28.5.1987, the State has filed the present appeal before this Court for enhancement of the sentence of the respondent.

I have heard Sri Harish Pujari, learned Addl.G.A. for the State and Sri Ajay Singh Bisht, learned amicus

curiae for the respondent and perused the entire material available on record.

Learned Addl.G.A. for the State has submitted that for the conviction part, he does not want to press the same. However, he has simply stated that the sentence awarded to the respondent is inadequate and he prayed for enhancement of the sentence. On the other hand, learned amicus curiae has submitted that respondent is an old person and is ailing with several diseases and he is unable to walk. He further submitted that respondent is not in a working condition and he is confined to bed and his condition is so serious that he may die at any time.

I have perused the judgment and order dated 28.5.1987. In the present case, the accident was said to be taken place on 25.11.1982 and for the said offence, the conviction and sentence above-said was awarded by learned CJM, Dehradun on 28.5.1987. Now, the period of 25 years has been expired about the above-said incident and by the lapse of time, I do not find any force in the appeal of the State.

Even otherwise, for the facts and circumstances as narrated above, the sentence awarded by learned Magistrate is perfectly justified. Hence, the appeal preferred by the State is devoid of merit and is hereby dismissed. The judgment and order dated 28.5.1987 passed by CJM, Dehradun is hereby confirmed.

(Dharam Veer, J.)

Rajeev Dang